

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CHRISTOPHER EMANUEL JAMES,

Plaintiff

9:24-CV-1332
(GTS/MJK)

v.

SERGEANT JOHN DOE, et al.,

Defendants.

APPEARANCES:

OF COUNSEL:

CHRISTOPHER EMANUEL LUCAS

Plaintiff, pro se

18-A-4676

Marcy Correctional Facility

P.O. Box 3600

Marcy, NY 13403

GLENN T. SUDDABY

Senior United States District Judge

DECISION AND ORDER

On November 1, 2024, pro se plaintiff Christopher Emanuel James ("plaintiff") commenced this action by filing a complaint for relief pursuant to 42 U.S.C. § 1983. Dkt. No. 1 ("Compl."). Plaintiff also filed a motion to proceed in forma pauperis ("IFP"). Dkt. No. 2 ("IFP Application"). On November 8, 2024 the Court issued an order denying the IFP application and administratively closing this action due to plaintiff's failure to comply with the filing fee requirements. Dkt. No. 4 (the "November Order"). Plaintiff was advised that if he desired to pursue this action he must so notify the Court and either (1) pay the filing fee of

\$405.00 in full, or (2) submit a completed, signed and properly certified IFP application within thirty (30) days. *See id.*

To date, plaintiff has not complied with the November Order. Presently before the Court is plaintiff's motion withdraw the complaint. Dkt. No. 7.

Rule 41(a) of the Federal Rules of Civil Procedure provides in relevant part that a plaintiff "may dismiss an action without a court order by filing . . . a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A). Rule 41(a) further provides that unless the notice provides otherwise, "the dismissal is without prejudice." Fed. R. Civ. P. 41(a)(1)(B).

As of the date hereof, plaintiff has not complied with the filing fee requirements and, as a result, the Court has not considered the sufficiency of the complaint pursuant to 28 U.S.C. § 1915A(b) or directed service on defendants. Plaintiff is therefore entitled to withdraw this action pursuant to Federal Rule of Civil Procedure 41(a)(1)(A).

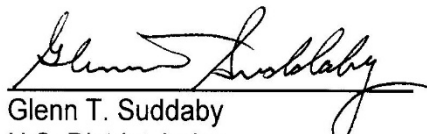
Accordingly, it is hereby

ORDERED plaintiff's motion (Dkt. No. 7) to withdraw the complaint is **GRANTED**; and it is further

ORDERED that the Clerk of the Court is directed to close this case and reflect on the docket that the action is voluntarily **DISMISSED without prejudice** pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure; and it is further

ORDERED that the Clerk of the Court serve a copy of this Decision and Order on plaintiff in accordance with the Local Rules.

Dated: December 30, 2024


Glenn T. Suddaby
U.S. District Judge